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UNCLAS SECTION 01 OF 03 KINSHASA 000204

SIPDIS

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SUBJECT: PARLIAMENTARIANS AIM TO FINISH CONSTITUTION BY  
MARCH 14

REF: KINSHASA 183

1. (U) SUMMARY: A working group of parliamentarians and government representatives agreed February 4 to a calendar that would have the Senate finish with the draft constitution by February 27 and the National Assembly adopt a final version by March 14. On issues of substance, the group basically endorsed most points of the existing draft constitution. END SUMMARY.

2. (U) Senators, National Assembly members, one government minister, and assorted national and international experts and participated in the constitution subcommission of the February 2-4 "Inter-Institutional Seminar" in Kinshasa (reftel). Charles Mwando Simba, chairman of the National Assembly's Political-Administrative-Juridical Committee, presided. Participants limited discussion to key issues identified by the Senate's Constitutional Committee, including: the form of the state, type of political regime, name of the country, apportionment of provinces, age requirement for presidential candidates, and nationality. Mwando noted--and others repeated the point later on--that the subcommission's recommendations were merely that, and should not be considered definitive answers to these questions.

#### Mid-March Goal to Finish the Constitution

3. (U) With the concurrence of the Senate Rapporteur and the Vice President of the Senate Constitutional Committee, the group agreed to recommend that President Kabila call the Senate back from its current recess. The subcommission recommended that the Senate Constitutional Committee should have until February 17 to adopt a draft constitution, then the full Senate should consider it from February 17-27, and the National Assembly should have it from February 27-March 14.

#### Unitary State

4. (SBU) Most participants opted for a unitary state, albeit a "strongly decentralized" one. Moise Nyarugabo from the Congolese Rally for Democracy (RCD) was the only speaker who unabashedly favored a federal system. Thomas Luhaka from the Congolese Liberation Movement (MLC) "agreed with the majority" that it is too soon for a federal system, but emphasized the need for devolution of authority and resources to the provinces. Information Minister Henri Mova Sakanyi (from President Kabila's party, the PPRD) argued that a federal system would be too costly and take a long time to implement, and said that--based on "public consultations" done by the Senate in recent months--the average Congolese prefers a unitary system anyway. (Comment: These consultations were very unscientific and their results questionable at best. For example, it shows 100% of those polled in Maniema and North Kivu provinces as favoring a unitary state--a figure many residents would challenge. End Comment.)

#### Semi-Presidential Political System

5. (SBU) Most favored a semi-presidential system, with a directly-elected president with significant powers and a prime minister chosen from the majority party or coalition in parliament. The RCD's Nyarugabo favored a purely parliamentary regime, but PPRD heavyweights such as Mova and others argued that the country needs a strong president to take it out of the ongoing crisis, and that a semi-presidential system was the "least bad option" that responds to concerns of a too-powerful presidency. National Assembly 1st Vice President Philomene Omatuku (PPRD) declared that the Congolese were too ignorant for a parliamentary system to work, therefore a very strong presidential was best, "and under that people can learn to become democratic." National Assembly 2nd Vice President Matadi Nenga (RCD) noted that "We're debating federal versus unitary, presidential versus parliamentary, but we don't even understand the definitions; if we did have a better understanding, the debate would be short."

#### Two-Round Presidential Election

6. (SBU) Most participants agreed that the president should

be directly elected, with a second round of voting for the top two vote-getters if neither got more than fifty percent in the first round. The one individual who spoke out against a two-round system was National Assembly member Jean-Paul Nkanga Boongo (PPRD), who expressed concern that it could lead to conflict if the first-round winner loses in the second round and then challenges the elections result. Nkanga also noted that having only one round would save money, and remarked bitterly that the GDRC had thus far promised a mere \$2m out of a total estimated cost of \$285m for elections. (Comment: Nkanga's views do not represent the views of President Kabila's entourage, which has argued strongly for a two-round system. End Comment.)

Is Kabila Too Young to be President?

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¶7. (SBU) Almost all participants felt the constitution should set a minimum age to become president, but there was disagreement on the specifics. Both the MLC and the RCD argued for 40 years with wording such as "or prior experience as head of state," that would allow Kabila to run for president (he is in his early 30s). PPRD partisans favored having no age requirement at all or making it 25 years old, the age at which one could legally lead a political party. The "consensus" position in the official minutes pegged it at ¶30. (Comment: It was apparent from the debate that Kabila opponents and potential opponents are not prepared to give him a pass on this issue. End Comment.)

Number of Provinces

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¶8. (U) There was general agreement that the DRC should keep its current number of eleven provinces as is for now, with the caveat that the new constitution should leave the matter open for possible changes in the future. PPRD figures opposed the idea of breaking up existing provinces into smaller units, but most others spoke in favor of the idea.

Special Status for the "Opposition Leader"

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¶9. (U) Participants agreed to the principle that the leader of 'opposition,' (e.g. the party or coalition that won the second-largest number of votes) should have special status, such as a government-furnished office and regular invitations to high-level policy discussions. The group did not agree on specifics, however.

No to Dual Nationality

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¶10. (SBU) There was little debate on this issue, and the group agreed to stick to the language currently used in the transitional constitution (which does not permit dual nationality). None in the group displayed any eagerness to revisit the nationality question, and in fact on separate occasions when discussing other subjects, both a Mai-Mai representative and Vice President Omatuku (PPRD) mentioned angrily that they had already compromised on the issue. The Mai-Mai representative--who was eventually cut off by the chairman--gathered his papers together as if to walk out, but in the end remained in his seat. (Note: The Mai-Mai walked out during the National Assembly debate on nationality months earlier. End Note.)

No Change to Country's Name

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¶11. (U) Virtually no debate here, all save one speaker thought no change was necessary.

A Nod to Women's Rights but No Quota

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¶12. (U) Several female participants argued that the constitution should require 30% of all public offices be filled by women, but the motion did not carry. The general consensus was that women's representation and gender issues should be addressed in the preamble, but not in the body of the constitution.

COMMENT

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¶13. (SBU) There were no real surprises during the debate. The group basically endorsed ideas already included in the latest, January 4 version of the draft constitution. Nonetheless, the work helped fulfil a seminar objective by helping to provide a public forum to debate key principles embodied in the constitution, and thus aid the process of informing the general public. As well, the announcement of a firm calendar for the Senate to complete its work was good news, as the constitution has been languishing in the upper house for months, with little apparent progress. Many observers in Kinshasa felt certain Senators were deliberately holding onto the issue because they saw it as a means of attracting attention and resources, not to mention the opportunity to travel abroad and within the DRC. END COMMENT.  
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